

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4)
5 MUR 6278)

6 JOYCE B. SEGERS)

7 COMMITTEE TO ELECT JOYCE SEGERS)

8 FOR CONGRESS AND WENDELL)

9 FITZGERALD, AS TREASURER)

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY SYSTEM

10
11
12 **GENERAL COUNSEL'S REPORT**

13 Under the Enforcement Priority System, matters that are low-rated

14 are

15 forwarded to the Commission with a recommendation for dismissal. The Commission has

16 determined that pursuing low-rated matters, compared to other higher-rated matters on the

17 Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases.

18 The Office of General Counsel scored MUR 6278 as a low-rated matter.

19 In this matter, the complainant, Keith R. Rockow, states that Joyce B. Segers, a

20 candidate for Congress from Oregon's Second Congressional District, and her campaign

21 committee, the Committee to Elect Joyce Segers for Congress and Wendell Fitzgerald, in his

22 official capacity as treasurer ("the Committee"), violated 2 U.S.C. §§ 441d(a) and (c) and

23 11 C.F.R. §§ 110.11(a)-(c) by failing to include disclaimers on the Committee's campaign

24 websites, www.joycesegers.com and www.joycesegers4congress.org,¹ and on its campaign

25 flyers which, according to the complaint, were handed out at a political event on March 6, 2010.

26 Included as Attachment A to the complaint are what appear to be printed screenshots of the

27 Committee's website as of February 28, 2010, which include identifying information such as

28 "Joyce Segers for Congress," but omit a disclaimer stating that the Committee had paid for the

29 website. Attachment B consists of approximately one-half of a page of text and graphics, and

¹ It appears that the Segers campaign currently has only one website, www.joycesegers.com, as we were redirected to that website when we clicked on www.joycesegers4congress.org.

RECEIVED
FEDERAL ELECTION
COMMISSION

2010 JUN 25 AM 10:06

CEI-A

10044273934

discloses Ms. Segers' campaign philosophy, the logo "Joyce Segers for U.S. Congress," and the Committee's name, address, telephone number, website, and email address. However, no disclaimer is included. According to the complainant, both the Committee's website and campaign flyers were required to include disclaimers within printed boxes stating that the Committee had paid for the communications.

Wendell Fitzgerald, the campaign's treasurer, responding on behalf of Ms. Segers and the Committee, acknowledges that some of the Committee's communications lacked disclaimers earlier in the campaign. As for the flyers distributed on March 6, 2010, Mr. Fitzgerald asserts that the campaign "recognized immediately after the event . . . that the flyer handed out there was out of compliance." According to Mr. Fitzgerald, the Committee responded by withdrawing those flyers from circulation and attempted to locate and destroy any remaining flyers. Mr. Fitzgerald also maintains that a disclaimer was added to the Committee's website on May 30, 2010.²

With respect to its flyers, the Committee acknowledges that disclaimers may have been required, and it concedes that its website failed to include a disclaimer during some portion of Segers' campaign. Although disclaimers were not affixed to some of the campaign materials and website, it appears the public could reasonably discern that the Committee produced the information. Thus, in light of the acknowledgment and remedial action taken by the Committee, and in furtherance of the Commission's priorities and resources, relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office intends on reminding the Committee to

² An internet search indicates that the Committee's website at <http://joycesegers.com/> includes the disclaimer "Paid for by the Committee to Elect Joyce Segers for Congress."

Elect Joyce Segers for Congress and Wendell Fitzgerald, in his official capacity as treasurer, of the requirements under 2 U.S.C. §§ 441d(a) and (c) and 11 C.F.R. §§ 110.11(a)-(c) concerning the use of appropriate disclaimers.

RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6278, close the file, and approve the appropriate letters. Additionally, this Office recommends reminding the Committee to Elect Joyce Segers for Congress and Wendell Fitzgerald, in his official capacity as treasurer, of the requirements under 2 U.S.C. §§ 441d(a) and (c) and 11 C.F.R. §§ 110.11(a)-(c) concerning the use of appropriate disclaimers.

Thomasenia P. Duncan
General Counsel

6/24/10

Date

BY:

Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration

Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Ruth Heilizer
Attorney
Complaints Examination
& Legal Administration